



## CITY OF SAN JOSÉ, CALIFORNIA

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### **SAN JOSÉ ELECTIONS COMMISSION**

Thomas Mertens, Chair  
Jang Badhesha  
Michael Smith  
Tony Ventura

### **SAN JOSÉ ELECTIONS COMMISSION MEETING MINUTES October 10, 2007**

#### **I CALL TO ORDER**

The Members of the San José Elections Commission convened at 6:00 p.m. in Room W-242 of City Hall, 200 E. Santa Clara Street, San José, CA 95113.

**PRESENT:** COMMISSIONERS de Funiak, Smith, Ventura and Mertens

**ABSENT:** COMMISSIONERS Badhesha

**STAFF PRESENT:** Chief Deputy City Attorney Norm Sato  
Senior Deputy City Attorney Lisa Herrick  
City Clerk Lee Price  
Deputy City Clerk Michelle Estabillo

#### **II REPORT OF THE CHAIR**

There was none.

#### **III DISCUSSION ITEMS**

**A.1** Continue to review and consider response to Request for Qualifications (RFQs) for an Investigator

**a.** Rivera and Associates

Chief Deputy City Attorney Norm Sato stated that the temporary continuation agreement was ready for signature if Rivera and Associates agreed to the terms. Chair Mertens stated that he had not yet not contacted Hanson Bridget Marcus Vlahos Rudy LLP regarding the working relationship between the evaluator and investigator but added that he will contact the evaluator before the next meeting.

Motion: Upon motion by Commissioner de Funiak, seconded by Commissioner Ventura, unanimously passed the Commission authorized the City Clerk to sign the continuation agreement with Rivera and Associates. Vote: 4-0-1

B. City Council Referrals to the Elections Commission and work program to address referrals to the Elections Commissions

Chief Deputy City Attorney Sato summarized the research he and Commissioner Ventura are working on regarding volunteers to campaigns. Chair Mertens reported he met with Mayor Reed and Councilmember Nguyen regarding the structure of the Commission and stated he is attempting to meet with other council members to obtain their feedback.

C. Penalties for Violations of the Campaign Contribution Ordinance

Document Filed: 1) Memorandum from City Attorney Rick Doyle dated October 5, 2007 regarding penalties for violations of the Campaign Distribution Ordinance

Commissioner Smith provided an update on the subcommittee's meeting regarding penalties for violating the Campaign Contribution Ordinance and recommended that the City's ordinance be changed to add language that states that penalties will be \$5,000 or three times the unlawful contribution amount, whichever is greater. Chief Deputy City Attorney Sato will prepare a draft ordinance for the Commission's review at the next meeting.

Discussion was held on Chair Merten's suggestion to extend the blackout period for contributing funds to a campaign from 17 days to 30 days. Senior Deputy City Attorney Lisa Herrick advised that the Commission will be updated on pending litigation in closed session next month.

Motion: Upon motion by Commissioner Smith, seconded by Commissioner de Funiak, and unanimously passed, the Commission directed the City Attorney to draft an ordinance to include the penalty of \$5,000 or three times the amount, whichever is higher. Vote: 4-0-1.

D. Disclosure Statements on Campaign and Electioneering Communications

Document Filed: 1) Memorandum from City Attorney Rick Doyle dated October 5, 2007 regarding disclosure statements on campaign and electioneering communications

Chief Deputy City Attorney Sato gave an overview of his advice memo regarding electioneering communication and proposed that the Commission look at San Francisco's model. Discussion was held on requiring independent expenditures to disclose contributions at a certain threshold and Commissioner Smith suggested that a "notice to voters" be included in the draft ordinance.

Motion: Upon motion by Commissioner Smith, seconded by Commissioner de Funiak, and unanimously passed, the Commission referred to the City Attorney for inclusion in the ordinance wording for a notice to voters. Vote: 4-0-1.

#### IV MEETING SCHEDULE

The next meeting was scheduled for October 29, 2007 at 5:30 p.m. as a special meeting.

#### V PUBLIC COMMENT

There were none.

#### VI ADJOURNMENT

The meeting adjourned at 7:08 p.m.

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THOMAS M. (TOM) MERTENS, CHAIR

ATTEST:

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LEE PRICE, MMC  
CITY CLERK and SECRETARY TO THE COMMISSION